

**COURT OF APPEAL  
STATE OF CALIFORNIA  
THIRD APPELLATE DISTRICT**

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**Court Minutes**

**October 19, 2009**

**MISC. ORDER 2009-011**

BY THE COURT:

Associate Justice George W. Nicholson is appointed to serve as Acting Presiding Justice to discharge the duties described in the California Rules of Court, rules 10.1004, 10.1012, and 10.1016, during the absence of the Presiding Justice from the court on October 27, 2009, through October 30, 2009, or until his return. (See Cal. Const., art. VI, §3.) The senior member of a panel of the Court is designated the Acting Presiding Justice of that panel during the absence of the Presiding Justice.

SCOTLAND, P.J.

At 9:30 a.m., the court met at 621 Capitol Mall, 10th Floor to begin its court calendar session. Present were Scotland, Presiding Justice; Raye, Associate Justice; Robie, Associate Justice; and Harper, bailiff.

**C058592**

**LOPEZ, etc., et al. v. DAIMLER CHRYSLER CORPORATION, et al.;  
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Cause called. Niromi L. Wijewantha, Deputy Attorney General, argued for appellant. Daniel E. Wilcoxon argued and Martha A. Taylor appeared only for respondent. Cause submitted.

At 10:08 a.m., the court recessed. At 10:10 a.m., the court reconvened with Scotland, Presiding Justice; Hull, Associate Justice; and Robie, Associate Justice.

**C058951**

**THE PEOPLE v. FRANCISCO CLYDE TIDWELL**

Cause called. Paul R. Kraus, court appointed counsel, argued for appellant. Clara M. Levers, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:25 a.m., the court recessed. At 10:27 a.m., the court reconvened with Blease, Associate Justice; Nicholson, Associate Justice; and Butz, Associate Justice.

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**Court Minutes**

**October 19, 2009, Continued**

**C058938      TOSTE et al. v. THE SUPERIOR COURT OF EL DORADO COUNTY**

Cause called. Charles G. Kinney argued for appellant. William A. Krabbenhoft, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:41 a.m., the court recessed. At 10:42 a.m., the court reconvened with Sims, Associate Justice; Nicholson, Associate Justice; and Butz, Associate Justice.

**C058651      LANCASTER et al. v. COUNTY OF YOLO et al.**

Cause called. Gary W. Gorski argued for appellant. J. Scott Smith argued for respondent. Cause submitted.

At 11:03 a.m., the court recessed. At 11:04 a.m., the court reconvened.

**C059800      LOUIE v. BFS RETAIL AND COMMERCIAL OPERATIONS, LLC**

Cause called. Dayton Magallanes argued for appellant. Chris Heikaus Weaver argued for respondent. Cause submitted.

At 11:30 a.m., the court recessed. At 2:00 p.m., the court reconvened with Scotland, Presiding Justice; Nicholson, Associate Justice; and Hull, Associate Justice.

**C057166      HOLLYWOOD PARK LAND COMPANY, LLC, et al. v. GOLDEN STATE  
TRANSPORTATION FINANCING CORPORATION, et al.**

Cause called. Steven L. Mayer argued for appellant. Andrew W. Stroud argued and Constance L. LeLouis, Deputy Attorney General, appeared only for respondent. Cause submitted.

At 2:38 p.m., the court recessed. At 2:42 p.m., the court reconvened with Scotland, Presiding Justice; Hull, Associate Justice; and Robie, Associate Justice.

**C056044      THE PEOPLE v. JAMES DANIEL DEAN**

Cause called. Robert L.S. Angres, court appointed counsel, argued for appellant. Brook Bennigson, Deputy Attorney General, argued for respondent. Cause submitted.

At 3:08 p.m., the court recessed. At 3:11 p.m., the court reconvened with Nicholson, Associate Justice; Raye, Associate Justice; and Robie, Associate Justice.

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**October 19, 2009, Continued**

**C055253      THE PEOPLE v. JIMMY LEE BENSON**

Cause called. Joan Isserlis, court appointed counsel, argued for appellant. John A. Bachman, Deputy Attorney General, argued for respondent. Cause submitted.

At 3:48 p.m., the court recessed until 9:30 a.m., Tuesday, October 20, 2009.

**C057485      THE PEOPLE v.  
GARRETT LEE GALLUP**

**(Not For Publication)**

The judgment is affirmed.  
BUTZ, J.  
We Concur: Scotland, P.J.  
Hull, J.

**C058125      THE PEOPLE v.  
JERMAINE DAMON SANTANA**

**(Not For Publication)**

The judgment is affirmed.  
BUTZ, J.  
We Concur: Raye, Acting P.J.  
Cantil-Sakauye, J.

**C058630      THE PEOPLE v.  
SCOTT RANDALL GILBERT**

**(Not For Publication)**

The judgment is affirmed.  
NICHOLSON, J.  
We Concur: Blease, Acting P.J.  
Cantil-Sakauye, J.

**C058994      THE PEOPLE v.  
CORNELIUS LAWRENCE POON**

**(Not For Publication)**

The judgment is affirmed.  
NICHOLSON, J.  
We Concur: Blease, Acting P.J.  
Butz, J.

**C059935      THE PEOPLE v. JONATHAN COOPER**

**(Not For Publication)**

The judgment is affirmed.  
SIMS, Acting P.J.  
We Concur: Hull, J.  
Butz, J.

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**October 19, 2009, Continued**

- C060291      THE PEOPLE v. CHARLES WILLIAMS      (Not For Publication)**  
The judgment is modified... As modified, the judgment is affirmed. The trial court is directed to correct the abstract of judgment accordingly and to send a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.  
RAYE, J.  
We Concur: Scotland, P.J.  
Hull, J.
- C060309      THE PEOPLE v. TERESA MORENO      (Not For Publication)**  
The judgment is affirmed. The trial court is directed to prepare a corrected abstract of judgment reflecting that defendant's three-year enhancement was imposed pursuant to Health and Safety Code section 11370.2, subdivision ( c ) (not Pen. Code, § 667.5, subd. ( b )), and to forward a certified copy of the corrected abstract to the Department of Corrections and Rehabilitation.  
SIMS, Acting P.J.  
We Concur: Hull, J.  
Butz, J.
- C060330      THE PEOPLE v. KENNETH JEFFREY      (Not For Publication)**  
The order granting probation is modified to provide that the \$250 fee for probation supervision is not a term of probation. As modified, the order is affirmed.  
RAYE, J.  
We Concur: Scotland, P.J.  
Hull, J.
- C060541      THE PEOPLE v. RICHARD MIKE      (Not For Publication)**  
The judgment is affirmed. The trial court is directed to correct the minute order and order of probation filed September 26, 2008, to include defendant's concurrent six-month jail term for the misdemeanor false imprisonment conviction and to forward the appropriate documents to defendant and to the probation department.  
SIMS, Acting P.J.  
We Concur: Hull, J.  
Butz, J.

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**October 19, 2009, Continued**

- C061120      THE PEOPLE v.      (Not For Publication)**  
**MICHAEL JASON MICHELET**  
The judgment is affirmed.  
SIMS, J.  
We Concur: Scotland, P.J.  
Butz, J.
- C061543      THE PEOPLE v.      (Not For Publication)**  
**JUSTIN LEMALL FOSTER**  
The judgment is affirmed.  
BLEASE, Acting P.J.  
We Concur: Sims, J.  
Butz, J.
- C060241      In re A.T.; SACRAMENTO COUNTY      (Not For Publication)**  
**DEPARTMENT OF HEALTH AND**  
**HUMAN SERVICES v. R.B.**  
The juvenile court's no-visitation order is affirmed.  
SIMS, Acting P.J.  
We Concur: Raye, J.  
Cantil-Sakauye, J.
- C060174      In re SCOTT GRAVES on Habeas Corpus.**  
**BY THE COURT:**  
Appellant's request to publish the opinion filed on September 17, 2009, is  
denied.  
SCOTLAND, P.J.

**October 20, 2009**

At 9:30 a.m., the court met at 621 Capitol Mall, 10th Floor to begin its court calendar session. Present were Scotland, Presiding Justice; Sims, Associate Justice; Butz, Associate Justice; and Haskett, bailiff.

- C057850      RIVER ROCK DEVELOPMENT et al. v. PAIK et al.**  
Cause called. James V. Nolan argued and Meghann L. St. Thomas and Richard T. Treon appeared only for cross-appellants. John D. Fairbrook argued for cross-respondents. Cause submitted.

At 10:00 a.m., the court recessed. At 10:01 a.m., the court reconvened with Sims, Associate Justice; Raye, Associate Justice; and Butz, Associate Justice.

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**Court Minutes**

**October 20, 2009, Continued**

**C059134      SACRAMENTO HOTEL PARTNERS, LLC v. WALLACE-KUHL & ASSOCIATES, INC.**

Cause called. Sonia S. Shah argued for appellant. Cindy Harris argued for respondent. Cause submitted.

At 10:19 a.m., the court recessed. At 10:20 a.m., the court reconvened with Sims, Associate Justice; Hull, Associate Justice; and Butz, Associate Justice.

**C059806      THE PEOPLE v. NATHANIEL D'ARINGTON EDWARDS**

Cause called. Richard M. Doctoroff argued for appellant. Kari L. Ricci, Deputy Attorney General, argued for respondent. Cause submitted.

At 10:42 a.m., the court recessed. At 2:00 p.m., the court reconvened with Scotland, Presiding Justice; Raye, Associate Justice; and Butz, Associate Justice.

**C060213      THE PEOPLE v. MILES EDGAR STARK**

Cause called. Michael L. Chastaine argued for appellant. Janet E. Neeley, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:35 p.m., the court recessed. At 2:36 p.m., the court reconvened with Blease, Associate Justice; Sims, Associate Justice; and Raye, Associate Justice.

**C055037      JRS PRODUCTS, INC.**

Cause called. Port J. Parker argued for appellant. Jeffrey T. Golenbock argued and Martin S. Hyman appeared only for respondent. Cause submitted.

At 3:05 p.m., the court recessed. At 3:06 p.m., the court reconvened with Blease, Associate Justice; Nicholson, Associate Justice; and Cantil-Sakauye, Associate Justice.

**C058883      THE PEOPLE v. HERBERT AARON KATZENBERGER**

Cause called. Kathleen M. Gilbert, court appointed counsel, argued for appellant. Kari L. Ricci, Deputy Attorney General, argued for respondent. Cause submitted.

At 3:22 p.m., the court recessed. At 3:24 p.m., the court reconvened with Blease, Associate Justice; Robie, Associate Justice; and Cantil-Sakauye, Associate Justice.

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Scotland, P.J.

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**October 20, 2009, Continued**

- C058784      THE PEOPLE v.      (Not For Publication)**  
**HAMEED JAMAL BROWN**  
The judgment is affirmed.  
ROBIE, J.  
We Concur: Scotland, P.J.  
Nicholson, J.
- C058863      THE PEOPLE v.      (Not For Publication)**  
**DANIEL VITO CLARK**  
The judgment is affirmed. The trial court is directed to prepare an amended abstract of judgment showing defendant was convicted by a jury of second degree burglary (§ 459) and to send a certified copy of the amended abstract to the Department of Corrections and Rehabilitation.  
RAYE, J.  
We Concur: Scotland, P.J.  
Hull, J.
- C059094      THE PEOPLE v.      (Not For Publication)**  
**MAURICE ANTHONY LIGGINS**  
The judgment is affirmed. The trial court is directed to correct the abstract of judgment...  
SCOTLAND, P.J.  
We Concur: Nicholson, J.  
Robie, J.
- C059601      ENTERCOM COMMUNICATIONS CORP. v.      (Not For Publication)**  
**ROYCE INTERNATIONAL BROADCASTING CORPORATION, et al.**  
The judgment is affirmed.  
SCOTLAND, P.J.  
We Concur: Nicholson, J.  
Robie, J.
- C060579      REHMAN v.      (Certified For Publication)**  
**DEPARTMENT OF MOTOR VEHICLES**  
The judgment is affirmed.  
ROBIE, J.  
We Concur: Scotland, P.J.  
Nicholson, J.



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**Court Minutes**

**October 20, 2009, Continued**

- C060690      THE PEOPLE v.      (Not For Publication)**  
**DANIEL LYN ESTEP**  
The judgment is affirmed.  
HULL, J.  
We Concur:    Sims, Acting P.J.  
                  Nicholson, J.
- C061479      In re A.M.; SACRAMENTO COUNTY      (Not For Publication)**  
**DEPARTMENT OF HEALTH AND HUMAN**  
**SERVICES v. S.M.; D.S. et al.**  
The judgment is dismissed.  
BUTZ, J.  
We Concur:    Blease, Acting P.J.  
                  Sims, J.
- C061586      THE PEOPLE v.      (Not For Publication)**  
**MARK ALAN WRIGHT**  
The judgment is affirmed.  
CANTIL-SAKAUYE, J.  
We Concur:    Scotland, P.J.  
                  Hull, J.
- C059144      NADER AUTOMOTIVE GROUP,      (Not For Publication)**  
**LLC, et al. v. NEW MOTOR VEHICLE**  
**BOARD; VOLKSWAGEN OF AMERICA,**  
**INC.**
- C059180      NADER AUTOMOTIVE GROUP,**  
**LLC, et al. v. NEW MOTOR VEHICLE**  
**BOARD; AUDI OF AMERICA, INC.**  
The judgments are affirmed. Audi and Volkswagen shall recover their  
costs on appeal. (Cal. Rules of Court, rule 8.278 (a) . )  
ROBIE, J.  
We Concur:    Scotland, P.J.  
                  Nicholson, J.

**October 21, 2009**

**There are no minutes for this date.**

**COURT OF APPEAL  
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**Court Minutes**

**October 22, 2009**

**C059472      THE PEOPLE v.      (Not For Publication)**  
**JOSEPH THOMAS MASEL**

The judgment is affirmed.

BUTZ, J.

We Concur:    Blease, Acting P.J.  
                 Hull, J.

**C057970      Estate of CECIL MERTZ, Deceased      (Not For Publication)**  
**GIBSON, As Administrator, etc. v.**  
**THOMAS**

The judgment is affirmed. Respondent shall recover his costs on appeal.  
(Cal. Rules of Court, rule 27 (a) . )

BLEASE, Acting P.J.

We Concur:    Hull, J.  
                 Robie, J.

**C059719      YORK CLAIMS SERVICE WAGE AND      (Not For Publication)**  
**HOURLY CASES**  
**JOHNSON et al. v. YORK CLAIMS**  
**SERVICE, INC.**

The order denying the motion to strike is reversed and the case is remanded to the trial court to determine whether York can establish there is a probability it will prevail on its cause of action. The parties shall bear their own costs on appeal.

RAYE, J.

We Concur:    Blease, Acting P.J.  
                 Hull, J.

**C059276      THE PEOPLE v. EDELMIRA VALENCIA      (Not For Publication)**

The judgment is affirmed.

HULL, J.

I concur:      Raye, J.

Defendant's position for writ of error *coram nobis* was untimely, as explained by my colleagues, which alone is a basis to affirm the trial court's judgment denying the petition. But there is more. The petition has a fundamental defect. The facts alleged do not support relief. ...

Because the facts alleged do not support *coram nobis*, the trial court correctly denied the petition on this basis, as well as because the petition was untimely. Thus, I concur in my colleagues' decision to affirm the trial court's judgment.

Scotland, P.J.

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**Court Minutes**

**October 22, 2009, Continued**

- C061582      THE PEOPLE v. LARREL WEATHERS      (Not For Publication)**  
The judgment is affirmed.  
HULL, J.  
We Concur: Scotland, P.J.  
Cantil-Sakauye, J.
- C061828      THE PEOPLE v. JULIE ANN BUHR      (Not For Publication)**  
The judgment is affirmed.  
Hull, J.  
We Concur: Scotland, P.J.  
Cantil-Sakauye, J.
- C060550      In re D.L. et al.; SACRAMENTO      (Not For Publication)**  
**COUNTY DEPARTMENT OF HEALTH**  
**AND HUMAN SERVICES v. S.L.**  
The juvenile court orders are affirmed.  
HULL, J.  
We Concur: Scotland, P.J.  
Cantil-Sakauye, J.
- C063004      PHILLIPS v. COUNTY OF SACRAMENTO et al.**  
**BY THE COURT:**  
The court examined the notice of appeal and determined that the order  
appealed from is nonappealable. Therefore, the appeal filed on  
September 1, 2009, is dismissed. (*Modica v. Merin* (1991) 234 Cal.App.3d 1072.)  
BLEASE, Acting P.J.

**October 23, 2009**

At 9:30 a.m., the court met at 621 Capitol Mall, 10th Floor to begin its court calendar session. Present were Blease, Associate Justice; Raye, Associate Justice; Hull, Associate Justice; and Horner, bailiff.

- C060573      R.R. v. THE SUPERIOR COURT OF SACRAMENTO COUNTY;**  
**THE PEOPLE**  
Cause called. Randi Barrat argued and Arthur L. Bowie appeared only for petitioner. Jeffrey D. Firestone, Deputy Attorney General, argued for real party in interest. Cause submitted.

At 10:04 a.m., the court recessed. At 10:04 a.m., the court reconvened.

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**October 23, 2009, Continued**

**C059949      CHANG v. JOHNSON et al.**

Cause called. Michael W. Thomas argued for appellant. Christopher Banks argued for respondent. Cause submitted.

At 10:18 a.m., the court recessed. At 10:18 a.m., the court reconvened.

**C059420      GOLDSMITH et al. v. CALDWELL et al.**

**CONSOLIDATED WITH**

**C060427      GOLDSMITH et al. v. CALDWELL et al.**

Cause called. Allan S. Haley argued for appellant. Marsha A. Burch argued for respondent. Cause submitted.

At 10:41 a.m., the court recessed. At 10:42 a.m., the court reconvened with Nicholson, Associate Justice; Raye, Associate Justice; and Hull, Associate Justice.

**C058722      In re the Marriage of ALAINA and STEVEN ANDREWS  
BERRY v. ANDREWS**

Cause called. Katherine Codekas argued for appellant. Steven Andrews argued in pro. per. for respondent. Cause submitted.

At 11:22 a.m., the court recessed. At 2:00 a.m., the court reconvened with Scotland, Presiding Justice; Raye, Associate Justice; and Hull, Associate Justice.

**C059224      THE PEOPLE v. JIMMIE DALE HARMON**

Cause called. Eric Weaver, court appointed counsel, argued for appellant. Jamie A. Scheidegger, Deputy Attorney General, argued for respondent. Cause submitted.

At 2:27 p.m., the court recessed until 9:30 a.m., Monday, October 26, 2009.

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**Court Minutes**

**October 23, 2009, Continued**

- C057274      THE PEOPLE v.      (Not For Publication)**  
**ANTOINE DUPREE TYSON et al.**  
The judgment is modified by striking the one-year enhancement under section 667.5 from White's sentence. As modified, the judgment is affirmed. Upon remand, the trial court shall send a corrected abstract of judgment to the Department of Corrections and Rehabilitation.  
BLEASE, Acting P.J.  
We Concur:    Sims, J.  
                 Robie, J.
- C057584      THE PEOPLE v. SEONJUAN ANDRIS      (Not For Publication)**  
The judgment is affirmed.  
BLEASE, Acting P.J.  
We Concur:    Raye, J.  
                 Robie, J.
- C058185      THE PEOPLE v.      (Not For Publication)**  
**CHRISTOPHER CERVANTES et al.**  
The judgments as to defendant Cervantes and defendant Hernandez are modified...  
SCOTLAND, P.J.  
We Concur:    Sims, J.  
                 Cantil-Sakauye, J.
- C058861      THE PEOPLE v.      (Not For Publication)**  
**ERNIE LEE MARIER, JR.**  
Defendant's convictions for violation of Business and Professions Code section 7159.5 (counts two and three) are reversed, and the trial court is directed to amend the order granting probation to reflect the correct restitution amount of \$375, 491. In all other respects, the judgment is affirmed.  
SCOTLAND, P.J.  
We Concur:    Raye, J.  
                 Cantil-Sakauye, J.
- C060059      THE PEOPLE v. KARIN E. PIERCE      (Not For Publication)**  
The judgment is affirmed.  
CANTIL-SAKAUYE, J.  
We Concur:    Sims, Acting P.J.  
                 Nicholson, J.

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**Court Minutes**

**October 23, 2009, Continued**

- C060348      In re LUCAS P.; SACRAMENTO      (Not For Publication)**  
**COUNTY DEPARTMENT OF HEALTH**  
**AND HUMAN SERVICES v. DONALD P.**  
The orders of the juvenile court are affirmed.  
BLEASE, Acting P.J.  
We Concur: Robie, J.  
Cantil-Sakauye, J.
- C061012      In re K.C.; THE PEOPLE v. K.C.      (Not For Publication)**  
The judgment is affirmed. The juvenile court is directed to correct its  
minute order to reflect an enhancement under Penal Code section 12022,  
subdivision (b) (1).  
NICHOLSON, J.  
We Concur: Blease, Acting P.J.  
Cantil-Sakauye, J.
- C061280      In re R.F.; SAN JOAQUIN COUNTY      (Not For Publication)**  
**HUMAN SERVICES AGENCY v. C.R.**  
The orders of the juvenile court are affirmed.  
BLEASE, Acting P.J.  
We Concur: Robie, J.  
Cantil-Sakauye, J.